

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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**DESIREE MONEYHAM,**

**Plaintiff,**

**v.**

**ANTHONY PRACTER,**

**Defendant.**

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**2:17-cv-02068-STA-tmp**

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**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION FOR *SUA SPONTE* DISMISSAL**

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On February 1, 2017, Plaintiff instituted this *pro se* action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) She also filed a motion for leave to proceed *in forma pauperis*, which the United States Magistrate Judge granted. (ECF No. 7.) On March 9, 2017, the Magistrate Judge directed Plaintiff to file an amended complaint. (ECF No. 8.) To date, Plaintiff has not done so. On May 2, 2017, the United States Magistrate Judge filed a report and recommendation recommending that the Court dismiss Plaintiff's complaint *sua sponte* for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). (ECF No. 10.) No objection has been filed. Accordingly, the report and recommendation for *sua sponte* dismissal of this matter is ADOPTED, and the case is hereby DISMISSED.

The Court must also consider whether Plaintiff may appeal this decision *in forma pauperis*. A non-prisoner may seek pauper status on appeal pursuant to Federal Rule of Appellate Procedure 24(a). *See Callihan v. Schneider*, 178 F.3d 800, 803–04 (6th Cir. 1999). If the district court “certifies that the appeal is not taken in good faith or finds that the party is not

otherwise entitled to proceed *in forma pauperis*,” the plaintiff must file a motion to proceed *in forma pauperis* in the Court of Appeals, regardless of whether pauper status was granted in the district court action. Fed. R. App. P. 24(a). In evaluating whether an appeal is taken in “good faith,” the Court considers whether the litigant seeks appellate review of any non-frivolous issue. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

The same reasons that lead the Court to dismiss this case for failure to state a claim also warrant the conclusion that an appeal would not be taken in good faith. The Court hereby CERTIFIES that any appeal in this matter by Plaintiff is not taken in good faith. Leave to proceed on appeal *in forma pauperis* is DENIED. If Plaintiff files a notice of appeal, she must pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* and supporting affidavit in the Sixth Circuit Court of Appeals within thirty (30) days.

IT IS SO ORDERED this 31<sup>st</sup> day of May, 2017.

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
CHIEF UNITED STATES DISTRICT JUDGE